

§ 122.21

19 CFR Ch. I (4–1–14 Edition)

(1) If either Customs or the airport authority gives 120 days written notice of termination to the other party; or

(2) If any amounts due to be paid to Customs are not paid on a timely basis.

[T.D. 92–90, 57 FR 43397]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §122.15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart C—Private Aircraft

§ 122.21 Application.

This subpart applies to all private aircraft as defined in §122.1(h). No other provisions of this part apply to private aircraft, except where stated in this subpart.

§ 122.22 Electronic manifest requirement for all individuals onboard private aircraft arriving in and departing from the United States; notice of arrival and departure information.

(a) *Definitions.* For purposes of this section:

Departure. “Departure” means the point at which the aircraft is airborne and the aircraft is en route directly to its destination.

Departure Information. “Departure Information” refers to the data elements that are required to be electronically submitted to CBP pursuant to paragraph (c)(4) of this section.

Pilot. “Pilot” means the individual(s) responsible for operation of an aircraft while in flight.

Travel Document. “Travel Document” means U.S. Department of Homeland Security approved travel documents.

United States. “United States” means the continental United States, Alaska, Hawaii, Puerto Rico, the Virgin Islands of the United States, Guam and the Commonwealth of the Northern Mariana Islands.

(b) *Electronic manifest requirement for all individuals onboard private aircraft arriving in the U.S.; notice of arrival—*(1) *General requirement.* The private aircraft pilot is responsible for ensuring the notice of arrival and manifest information regarding each individual onboard the aircraft are transmitted to CBP. The pilot is responsible for the

submission, accuracy, correctness, timeliness, and completeness of the submitted information, but may authorize another party to submit the information on their behalf. Except as provided in paragraph (b)(7) of this section, all data must be transmitted to CBP by means of an electronic data interchange system approved by CBP and must set forth the information specified in this section. All data pertaining to the notice of arrival for the aircraft and the manifest data regarding each individual onboard the aircraft must be transmitted at the same time via an electronic data interchange system approved by CBP.

(2) *Time for submission.* The private aircraft pilot is responsible for ensuring that the information specified in paragraphs (b)(3) and (b)(4) of this section is transmitted to CBP:

(i) For flights originally destined for the United States, any time prior to departure of the aircraft, but no later than 60 minutes prior to departure of the aircraft from the foreign port or place; or

(ii) For flights not originally destined to the United States, but diverted to a U.S. port due to an emergency, no later than 30 minutes prior to arrival; in cases of non-compliance, CBP will take into consideration that the carrier was not equipped to make the transmission and the circumstances of the emergency situation.

(3) *Manifest data required.* For private aircraft arriving in the United States the following identifying information for each individual onboard the aircraft must be submitted:

(i) Full name (last, first, and, if available, middle);

(ii) Date of birth;

(iii) Gender (F=female; M=male);

(iv) Citizenship;

(v) Country of residence;

(vi) Status on board the aircraft;

(vii) DHS-Approved travel document type (e.g. passport; alien registration card, etc.);

(viii) DHS-Approved travel document number, if a DHS-approved travel document is required;

(ix) DHS-Approved travel document country of issuance; if a DHS-approved travel document is required;

(x) DHS-Approved travel document expiration date, where applicable;

(xi) Alien registration number, where applicable;

(xii) Address while in the United States (number and street, city, state, and zip code). This information is required for all travelers including crew onboard the aircraft.

(4) *Notice of arrival.* The advance notice of arrival must include the following information about the aircraft and where applicable, the pilot:

(i) Aircraft tail number;

(ii) Type of Aircraft;

(iii) Call sign (if available);

(iv) CBP issued decal number (if available);

(v) Place of last departure (ICAO airport code, when available);

(vi) Date of aircraft arrival;

(vii) Estimated time of arrival;

(viii) Estimated time and location of crossing U.S. border/coastline;

(ix) Name of intended U.S. airport of first landing (as listed in §122.24 if applicable, unless an exemption has been granted under §122.25, or the aircraft was inspected by CBP Officers in the U.S. Virgin Islands);

(x) Owner/Lessee's name (if individual: Last, first, and, if available, middle; or business entity name, if applicable);

(xi) Owner/Lessee's address (number and street, city, state, zip/postal code, country, telephone number, fax number, and email address);

(xii) Pilot/Private aircraft pilot name (last, first, middle, if available);

(xiii) Pilot license number;

(xiv) Pilot street address (number and street, city, state, zip/postal code, country, telephone number, fax number, and email address);

(xv) Country of issuance of pilot's license;

(xvi) Operator name (for individuals: last, first, and if available, middle; or business entity name, if applicable);

(xvii) Operator street address (number and street, city, state, zip code, country, telephone number, fax number, and e-mail address);

(xviii) Aircraft color(s);

(xix) Complete Itinerary (foreign airports landed at within past 24 hours prior to landing in United States); and

(xx) 24-hour Emergency point of contact (e.g., broker, dispatcher, repair shop, or other third party contact or individual who is knowledgeable about this particular flight) name (first, last, middle, if available) and phone number.

(5) *Reliable facilities.* When reliable means for giving notice are not available (for example, when departure is from a remote place) a landing must be made at a foreign place where notice can be sent prior to coming into the United States.

(6) *Permission to land.* Prior to departure from the foreign port or place, the pilot of a private aircraft must receive a message from DHS approving landing within the United States, and follow any instructions contained therein prior to departure. Once DHS has approved departure, and the pilot has executed all instructions issued by DHS, the aircraft is free to depart with the intent of landing at the designated U.S. port of entry.

(7) *Changes to manifest.* The private aircraft pilot is obligated to make necessary changes to the arrival manifest after transmission of the manifest to CBP. If changes to an already transmitted manifest are necessary, an updated and amended manifest must be resubmitted to CBP. Only amendments regarding flight cancellation, expected time of arrival (ETA) or changes in arrival location, to an already transmitted manifest may be submitted telephonically, by radio, or through existing processes and procedures. On a limited case-by-case basis, CBP may permit a pilot to submit or update notice of arrival and arrival/departure manifest information telephonically when unforeseen circumstances preclude submission of the information via eAPIS. Under such circumstances, CBP will manually enter the notice of arrival and arrival/departure manifest information provided by the pilot and the pilot is required to wait for CBP screening and approval to depart. Changes in ETA and arrival location must be coordinated with CBP at the new arrival location to ensure that resources are available to inspect the arriving aircraft. If a subsequent manifest is submitted less than 60 minutes prior to departure to the United States, the private aircraft pilot must

receive approval from CBP for the amended manifest containing added passenger information and/or changes to information that were submitted regarding the aircraft and all individuals onboard the aircraft, before the aircraft is allowed to depart the foreign location, or the aircraft may be, as appropriate, diverted from arriving in the United States, or denied permission to land in the United States. If a subsequent, amended manifest is submitted by the pilot, any approval to depart the foreign port or location previously granted by CBP as a result of the original manifest's submission is invalid.

(8) *Pilot responsibility for comparing information collected with travel document.* The pilot collecting the information described in paragraphs (b)(3) and (b)(4) of this section is responsible for comparing the travel document presented by each individual to be transported onboard the aircraft with the travel document information he or she is transmitting to CBP in accordance with this section in order to ensure that the information is correct, the document appears to be valid for travel purposes, and the individual is the person to whom the travel document was issued.

(c) *Electronic manifest requirement for all individuals onboard private aircraft departing from the United States; departure information—(1) General requirement.* The private aircraft pilot is responsible for ensuring that information regarding private aircraft departing the United States, and manifest data for all individuals onboard the aircraft is timely transmitted to CBP. The pilot is responsible for the accuracy, correctness, timeliness, and completeness of the submitted information, but may authorize another party to submit the information on their behalf. Data must be transmitted to CBP by means of an electronic data interchange system approved by CBP, and must set forth the information specified in paragraph (c)(3) and (c)(4) of this section. All data pertaining to the aircraft, and all individuals onboard the aircraft must be transmitted at the same time. On a limited case-by-case basis, CBP may permit a pilot to submit or update notice of arrival and arrival/departure manifest information telephonically to

CBP when unforeseen circumstances preclude submission of the information via eAPIS. Under such circumstances, CBP will manually enter the notice of arrival and arrival/departure manifest information provided by the pilot and the pilot is required to wait for CBP screening and approval to depart.

(2) *Time for submission.* The private aircraft pilot must transmit the electronic data required under paragraphs (c)(3) and (c)(4) of this section to CBP any time prior to departing the United States, but no later than 60 minutes prior to departing the United States.

(3) *Manifest data required.* For private aircraft departing the United States the following identifying information for each individual onboard the aircraft must be submitted:

- (i) Full name (last, first, and, if available, middle);
- (ii) Date of birth;
- (iii) Gender (F=female; M=male);
- (iv) Citizenship;
- (v) Country of residence;
- (vi) Status on board the aircraft;
- (vii) DHS-Approved travel document type (e.g. passport; alien registration card, etc.);
- (viii) DHS-Approved travel document number;
- (ix) DHS-Approved travel document country of issuance, if a DHS-Approved travel document is required;
- (x) DHS-approved travel document expiration date, where applicable;
- (xi) Alien registration number, where applicable;
- (xii) Address while in the United States (number and street, city, state, and zip/postal code). This information is required for all travelers including crew onboard the aircraft.

(4) *Notice of Departure information.* For private aircraft and pilots departing the United States, the following departure information must be submitted by the pilot:

- (i) Aircraft tail number;
- (ii) Type of Aircraft;
- (iii) Call sign (if available);
- (iv) CBP issued decal number (if available);
- (v) Place of last departure (ICAO airport code, when available);
- (vi) Date of aircraft departure;
- (vii) Estimated time of departure;

(viii) Estimated time and location of crossing U.S. border/coastline;

(ix) Name of intended foreign airport of first landing (ICAO airport code, when available);

(x) Owner/Lessee's name (if individual: last, first, and, if available, middle; or business entity name if applicable);

(xi) Owner/Lessee's street address (number and street, city, state, zip/postal code, country, telephone number, fax number, and email address);

(xii) Pilot/Private aircraft pilot name (last, first and, if available, middle);

(xiii) Pilot license number;

(xiv) Pilot street address (number and street, city, state, zip/postal code, country, telephone number, fax number, and email address);

(xv) Country of issuance of pilot's license;

(xvi) Operator name (if individual: last, first, and if available, middle; or business entity name, if applicable);

(xvii) Operator street address (number and street, city, state, zip/postal code, country, telephone number, fax number, and email address);

(xviii) 24-hour Emergency point of contact (e.g., broker, dispatcher, repair shop, or other third party contact, or individual who is knowledgeable about this particular flight) name (last, first, middle, if available) and phone number;

(xix) Aircraft color(s); and

(xx) Complete itinerary (intended foreign airport destinations for 24 hours following departure).

(5) *Permission to depart.* Prior to departure for a foreign port or place, the pilot of a private aircraft must receive a message from DHS approving departure from the United States and follow any instructions contained therein. Once DHS has approved departure, and the pilot has executed all instructions issued by DHS, the aircraft is free to depart.

(6) *Changes to manifest.* If any of the data elements change after the manifest is transmitted, the private aircraft pilot must update the manifest and re-submit the amended manifest to CBP. Only amendments regarding flight cancellation, expected time of departure or changes in departure location, to an already transmitted manifest may be submitted telephonically, by radio, or

through existing processes and procedures. If an amended manifest is submitted less than 60 minutes prior to departure, the private aircraft pilot must receive approval from CBP for the amended manifest containing added passenger information and/or changes to information that were submitted regarding the aircraft before the aircraft is allowed to depart the U.S. location, or the aircraft may be denied clearance to depart from the United States. If a subsequent amended manifest is submitted by the pilot, any clearance previously granted by CBP as a result of the original manifest's submission is invalid.

(7) *Pilot responsibility for comparing information collected with travel document.* The pilot collecting the information described in paragraphs (c)(3) and (c)(4) of this section is responsible for comparing the travel document presented by each individual to be transported onboard the aircraft with the travel document information he or she is transmitting to CBP in accordance with this section in order to ensure that the information is correct, the document appears to be valid for travel purposes, and the individual is the person to whom the travel document was issued.

[CBP Dec. 08-43, 73 FR 68310, Nov. 18, 2008]

§ 122.23 Certain aircraft arriving from areas south of the U.S.

(a) *Application.* (1) This section sets forth particular requirements for certain aircraft arriving from south of the United States. This section is applicable to all aircraft except:

(i) Public aircraft;

(ii) Those aircraft operated on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Department of Transportation, authorizing interstate, overseas air transportation; and

(iii) Those aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. (See 49 U.S.C. App. 1372 and 14 CFR part 298).

(2) The term "place" as used in this section means anywhere outside of the